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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,794

01/07/2008

Bjarne Worsoee

P71099US0

9649

136 7590 02/27/2009

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EXAMINER

CHAPMAN, GINGER T

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

02/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,794	<b>Applicant(s)</b> WORSOEE ET AL.	
	<b>Examiner</b> Ginger T. Chapman	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/29/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the claims***

1. Claims 1-8 are pending in the application.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Present (US 2,788,785).
4. With respect to claims 1 and 5, Present discloses an ostomy support set and method for applying an ostomy support garment (c. 3, ll. 8-40) comprising a garment 1 having a first hole 23, the hole 23 having a stabilized edge 28 (c. 2, ll. 26-27), and a disc 24 for providing the supporting effect of a material removed from the hole 23 (c. 2, ll. 20-23), said disc 24 having a second hole for receiving a stoma, the disc having an outer diameter greater than the diameter of the first hole.
5. The examiner notes that the claims are drawn to a support garment and the ostomy appliance recited in claim 5 is not claimed and forms no part of the instant support garment.
6. With respect to claim 2, Present discloses the second hole is placed centrally in disc 24 (fig. 2).

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Present in view of Hauser (US 3,557,790).

10. With respect to claims 3 and 6, Present discloses the claimed invention except for the diameter of the first hole is greater than the diameter of the second hole. As best depicted in Figures 1, 3, 5 and 8, Hauser teaches an ostomy support set comprising a garment 28 having a first hole 30 (fig. 3) and a disc 20 (fig. 1) having a second hole 25 and the diameter of the first hole 30 is greater than the diameter of the second hole 25 (figs. 13 and 14; c. 3, ll. 46-48). Hauser further teaches that the diameter of the holes can come in various sizes to accommodate different size stomas (c. 3, ll. 3-4). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the holes of Present having the claimed

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diameters as taught by Hauser since Hauser states, at c. 3, ll. 32-37, that this permits a coupling ring 37 for an ostomy bag to be located within the holes.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Present in view of Millman (US 5,653,701).

12. With respect to claim 4, Present discloses the claimed invention except for the diameter of the second hole is greater than the diameter of a coupling ring of an ostomy body side member. As best depicted in Figures 1 and 4, Millman teaches an ostomy support set having a first hole 92 and second hole 40 and the diameter of the second hole is greater than the diameter of a coupling ring 62 (fig. 4). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the holes of Presesnt having the claimed diameters as taught by Millman since, as best depicted in Figure 4, this permits the coupling member to fit within the support.

13. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Present in view of Hauser as applied to claims 3 and 6 above and further in view of Millman (US 5,653,701).

14. With respect to claims 7 and 8, the combination of Present and Hauser disclose the claimed invention except for the diameter of the second hole is greater than the diameter of a coupling ring of an ostomy body side member. As best depicted in Figures 1 and 4, Millman teaches an ostomy support set for use with a two-piece appliance comprising a body side member 62 and a receiving bag 64 having a first hole 92 and second hole 40 and the diameter of the second hole is greater than the diameter of the coupling ring 62 (fig. 4). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to

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form the holes of Present / Huaser having the claimed diameters as taught by Millman since, as best depicted in Figure 4, this permits the coupling member to fit within the support.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Kirkliauskas (US 3,773,048) Figure 3.

17. Galjour (US 5,947,942) Figures 1 and 6.

18. Freeman et al (US 3,421,505) Figures 3 and 7.

19. Hansen (US 2007/0005034) Figure 1.

20. Gallo (US 5,626,570) Figure 4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934.

The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ginger T Chapman/  
Examiner, Art Unit 3761  
02/17/09

/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761